

Aquaculture and Public Engagement in Nova Scotia

This volume of the East Coast Environmental Law Summary Series offers an overview of the regulation of aquaculture development in Nova Scotia with a focus on public participation. The goal of this publication is to provide members of the public with information on how aquaculture development is regulated in Nova Scotia and how they can have their voices heard during regulatory processes.

Definitions of words used in this publication can be found at the end of the document. This publication, as well as past volumes of our Summary Series and other environmental law resources, can be found on our website at www.ecelaw.ca, under the "Resources" tab.

Aquaculture in Nova Scotia: An Overview

Aquaculture is defined generally as the farming of aquatic plants and animals for commercial purposes.¹

Aquaculture can take place in marine or freshwater environments, including the open ocean, a lake, or in large land-based tanks. Nova Scotia is home to marine and land-based aquaculture sites that produce a variety of species of finfish, shellfish, and aquatic plants, including oysters, scallops, mussels, trout, salmon, and rockweed.

The most common and highest income generating form of aquaculture in the province is marine-based, open-net pen finfish aquaculture. The most common finfish found in these operations is the Atlantic salmon. In an open-net system, the aquatic species are reared within an enclosure in a natural waterway and there is free exchange between the fish and the surrounding natural environment.² The open-net style of production raises environmental concerns, including increased water pollution from aquaculture-related feed and chemicals, interference with the migration patterns of wild salmon populations, and interbreeding of escaped farmed salmon with wild salmon.³

Nova Scotia also supports land-based closed-containment aquaculture. Land-based aquaculture systems include large fish tanks, pipes, and filters that enable the effluent water from the system to be treated and re-circulated within the system.⁴ These systems carry less risk to the natural

environment; however, they may be costly and require significant energy to run.⁵

In 2020, there were 234 licensed aquaculture sites in Nova Scotia: 36 are marine-based finfish sites and 32 are land-based sites. The remaining sites are shellfish and marine plants.⁶

The Government of Nova Scotia recognizes that as the industry continues to expand on land and in marine waters, it is vital that it is managed in a way that prioritizes social and environmental responsibility, robust regulation, and public engagement.⁷ The 2014 Independent Aquaculture Regulatory Review for Nova Scotia noted that meaningful public participation in decision-making is especially important in aquaculture regulation because it allows local communities to be heard and strengthens the accountability of proponents and regulators.⁸ With this in mind, we have created this document to assist members of the public in having their voices heard during the aquaculture leasing and licencing process in Nova Scotia.

Who regulates aquaculture in Nova Scotia?

In Nova Scotia, the Minister of Fisheries and Aquaculture is responsible for the regulation and management of aquaculture operations. The *Fisheries and Coastal Resources Act*⁹ and its regulations, which include the Aquaculture Licence and Lease Regulations and the Aquaculture Management Regulations, are administered by the Department of Fisheries and Aquaculture ("the Department"). Aquaculture is also subject to federal regulation under legislation such as the federal *Fisheries Act* and the *Canadian Navigable Waters Act*.

There is debate over which government, federal or provincial, has the legal jurisdiction to regulate aquaculture.¹⁰

Morton v. British Columbia (Agriculture and Lands)

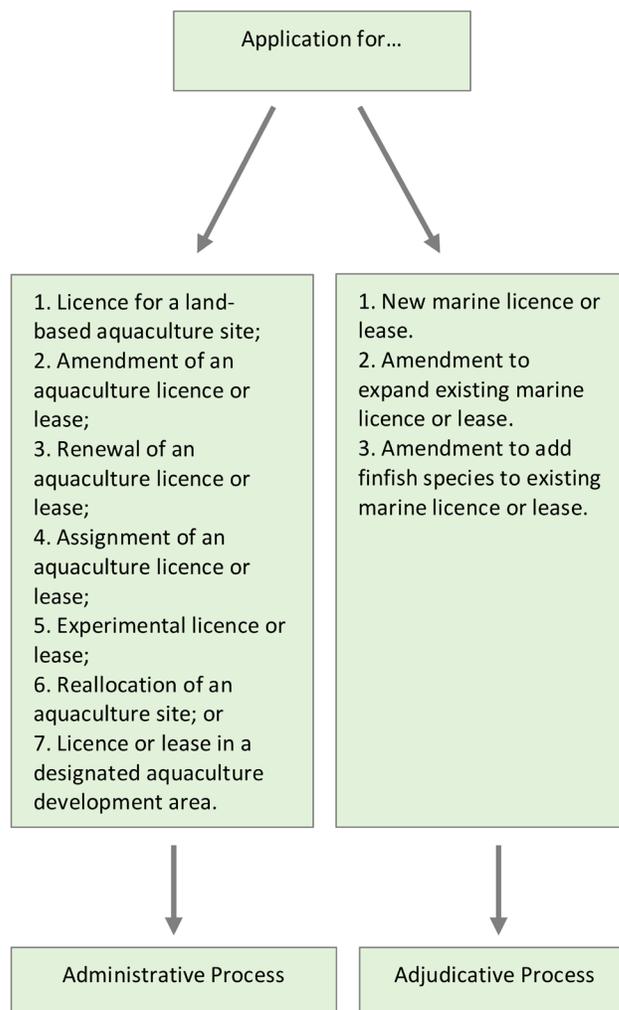
A 2010 decision issued by the British Columbia Supreme Court found that finfish aquaculture is a “fishery” and therefore falls within the jurisdiction of the federal government as per section 91(12) of Canada’s Constitution. The judge went on to find that marine based aquaculture activity involves rearing of fish which are “products of the sea” and that aquaculture fish are located in waters that would otherwise be occupied by wild fish. To that end he found that the fish in a fish farm may be privately owned but the fish farm is subject to federal regulation. Following the decision, the federal government took over responsibility for aquaculture regulation in British Columbia. This is not the case in Nova Scotia, where the provincial government regulates most aquaculture activity.

How is aquaculture regulated in Nova Scotia?

In Nova Scotia, an aquaculture licence, issued in accordance with the *Fisheries and Coastal Resources Act* (“FCRA”), is required to operate any aquaculture site, whether it is land-based or marine-based. The FCRA also requires those wishing to start a marine-based aquaculture site to obtain a lease for use of the water column and subaquatic land owned by the provincial Crown.¹¹

Depending on the nature of the application, the Department will follow either an Administrative Process or an Adjudicative Process.

Figure 1: Applications for Aquaculture Activities



Adjudicative Process

What is adjudication?

Adjudication refers to the legal process by which a judge, arbitrator, or other trier of fact reviews evidence and hears arguments and legal reasoning by opposing parties to reach a binding decision that determines the parties’ rights and obligations.¹² In the aquaculture adjudicative process, the Aquaculture Review Board serves as the arbitrator.

When is the adjudicative process used to make aquaculture decisions in Nova Scotia?

There are three types of applications that will require an adjudicative process:¹³

1. A new marine license or lease, including an option to lease;
2. An expansion to an existing marine license or lease; and,
3. The addition of finfish species to an existing marine license or lease.

Adjudicative Amendment: A change or amendment to an aquaculture lease or licence that has been approved by the **Aquaculture Review Board** is referred to as an adjudicative amendment.¹⁴

What is an option to lease?

Under the authority of the *FCRA*, the Minister may issue a call for proposals to lease a Crown area for the purposes of aquaculture development. A successful proposal may lead the Minister to issue an option to lease in that area. The option to lease grants an exclusive right, for a specified time, to a proponent to apply for an aquaculture lease in the designated area.¹⁵

The decision to issue an option to lease is solely up to the Minister and may be based on a number of factors, including potential benefits to the community and the previous record of the proponent.¹⁶

The Doelle-Lahey Panel Report

The “option to lease” concept was recommended by the 2014 independent Doelle-Lahey Panel. In an effort to encourage early community engagement, the Panel Report recommended that an “option to lease” be provided to an aquaculture developer to ensure that they did not lose a preferred site while engaging with the community to determine the suitability of a lease application.¹⁷

An option to lease does not apply in designated **aquaculture development areas**.¹⁸

The Adjudicative Application Process

Phase 1: Proponent Scoping Phase

The first step in the Adjudicative Process is the scoping phase. For a new marine based license, the scoping phase includes a proposal to the Minister of Fisheries and Aquaculture for an option to lease. If the option to lease is granted, the proponent will have up to 6 months to explore the location and submit an application.¹⁹

Public Notice

A notice of an option to lease must be published on the Department’s website no later than 30 days after the option is issued. This may be extended to 60 days if requested by the proponent and approved by the Minister.²⁰

Once the proponent has an option to lease, they complete the scoping process, which must include at least 1 public information meeting in a community close to the proposed site. The proponent must publish notice of the public information meeting.²¹

The Minister has the discretion to require more from the proponent, including more public information meetings.²²

A proponent seeking an adjudicative amendment to an existing license or lease is also required to complete the scoping process.²³

Public Information and Engagement

During the scoping phase, the proponent should share information with the public about the species to be farmed, the design and management of the site, and biophysical information about the site. Government documents indicate that the proponent is expected to receive feedback from the public to shape their plans; however, the *FCRA* and Regulations do not require the proponent to demonstrate how public input has shaped their plans.²⁴

Phase 2: Review Phase

Once the scoping is complete, the proponent submits an application for a license and/or lease to the Department. The application must include a report on the scoping process and a development plan.²⁵ The Department will consult with other federal and provincial government departments and may consult with others as well.²⁶ If the application is complete, it must be referred to the Aquaculture Review Board.²⁷

Applications for an adjudicative amendment will also be subject to a performance review.²⁸ The **Development Plan** specifies the technical aspects and feasibility of an aquaculture operation at a particular site.²⁹

Public Information

The *FCRA* and Regulations do not require the release of application information to the public. However, one of the purposes of the Act is to “ensure that members of the public have access to information with respect to the regulatory process”.³⁰ Further, the policy of the Department of Fisheries and Aquaculture is to promote public involvement in the aquaculture application process.

To that end, [application forms and detailed development plan guides](#)

as well as [full applications with development plans](#) can be found on the Department's website.

affirmation is a serious violation of the law referred to as perjury.

Phase 3: Decision Phase

Decisions on applications for a new marine license or lease or an adjudicative amendment are made by the Aquaculture Review Board.³¹

The Aquaculture Review Board is an independent decision-making body consisting of three members appointed by the Minister.³² The Review Board holds public hearings, reviews information, and makes decisions on adjudicative applications.

The Public Hearing

Before making a decision, the Review Board must hold a public hearing.³³

Public Notice of Hearing

Notice of a hearing must be made on the Department's website at least 60 days before the scheduled hearing date.

At a minimum, the public notice must include:

- the nature of the hearing;
- the time and place of the hearing;
- the location of the aquaculture site that is the subject of the adjudicative hearing;
- the species and method of cultivation proposed; and,
- the applicant's name.³⁴

The hearing must take place in a community that is near the aquaculture site.³⁵

Members of the public can participate in the public hearing, also referred to as an adjudicative hearing, in three ways:

(1) Submit written comments before the hearing: Any person can submit written comments to the Review Board during the notice period.³⁶

(2) Participate in the hearing: Any person can submit a request to speak at the hearing. The request must be a **sworn oral statement** or affirmation that includes your name, place of residence, and position on the issues, and it must address at least 1 of the **section 3 factors** (see Table 1, below). If the request is granted, you will have a maximum of 6 minutes to speak at the hearing.³⁷

What is a sworn oral statement or an affirmation?

This means that you swear (on a Bible) or declare a solemn vow that what you are saying is true. Breaking an oath or

(3) Become an intervenor: Any person can apply to become an intervenor. The Review Board **must** grant intervenor status to any person requesting it who, in the opinion of the Review Board, is substantially and directly affected by the hearing.³⁸ Within 10 days of receiving the intervenor application, the Review Board must decide whether to grant or refuse intervenor status. The decision by the Review Board is final and cannot be appealed.³⁹

Important Intervenor Timelines

A request to intervene must be made to the Review Board in writing no later than 10 days after public notice of the adjudicative hearing.⁴⁰

The Review Board must make a decision no later than 10 days after receiving the request and must inform the person making the request no later than 5 days after making a decision.⁴¹

The Role of the Intervenor

An intervenor is a party to the hearing whom the Review Board has determined is **substantially and directly affected** by the hearing. Although members of the public can participate in the adjudicative hearing, as described above, only the applicant (formerly the proponent), the Minister, and the intervenor(s) are parties to the hearing.⁴²

As a party, the intervenor can participate fully in the hearing process and is entitled to all information, correspondence, and notice related to the hearing.

Substantially and directly affected: To date, neither the Department nor the Review Board has provided criteria for assessing whether someone is *substantially and directly affected* by an application. Nova Scotia courts have indicated that the key question to ask is whether a potential intervenor has an economic, commercial, legal, or personal interest in a decision that is distinct from the concerns of the general public.⁴³ As the Review Board makes decisions on applications for intervenor status, how they define *substantially and directly affected* may become clear. However, the Review Board is not required by law to provide reasons for their decisions, which will make it more difficult to determine the bases for such decisions.

The Review Board's Decision

The Review Board has 30 days after the adjudicative hearing to approve, conditionally

approve, or reject an application. The decision will be posted on the Department’s website as well as on the Review Board’s website.⁴⁴

Any party to an application may appeal the decision by filing a notice of appeal to the Nova Scotia Supreme Court within 30 days of the decision being publicly posted. This would include the applicant or an intervenor but not a member of the public. The initiation of an appeal does not stop the application of the Review Board’s decision.⁴⁵

The Section 3 Factors

The “section 3 factors” are a list of 8 factors found in section 3 of the Aquaculture License and Lease Regulations. These factors are key considerations for any decision related to marine aquaculture sites. Members of the public, including intervenors, who wish to participate in a public hearing or to comment on an adjudicative application must be familiar with the section 3 factors. For example, the Review Board is only required to consider evidence that relates to the proposed aquaculture operation, including its geographic location, and the section 3 factors.⁴⁶ As well, the Review Board is only required to consider public comments that relate to one or more of the section 3 factors.⁴⁷

Table 1, below, provides a summary of the section 3 factors used to assess applications for new marine finfish sites and adjudicative amendments. There are different factors to be considered for land-based aquaculture applications.

Depending on the nature of the application you wish to comment on, you should consult the appropriate development plan guide for more detailed descriptions on the factors.

Table 1: Section 3 Factors

FACTORS ⁴⁸	CONSIDERATIONS
The optimum use of marine resources.	Consider the full picture of the proposed operation, its overall effects, impacts, and benefits, and how the proposed operation is or is not the best use of marine resources.
The contribution of the proposed operation to community and provincial economic development.	Consider production information for cultivated species, infrastructure, services and suppliers for the operation, employment details, and contributions or adverse impacts to the local and provincial economy.
Fisheries activities in the public waters surrounding the	Consider all types of fishing activities taking place in the region of the proposed development and the potential

proposed aquaculture operation.	impacts on these activities, including impacts the development may have on other species and their habitat in the area surrounding the cages.
Oceanographic and biophysical characteristics of the public waters.	Consider oceanographic and biophysical characteristics of the site environment, such as wind speed, wave height, tides, salinity, temperature, and depth of water and whether and how these factors have been accounted for in the choice of the site location and design.
The other users of the public waters surrounding the proposed aquaculture operation.	Consider how other users in the region of the proposed development, including adjacent property owners, recreational sites, communities, First Nations territories, and birds, marine mammals, and other wildlife may be impacted.
The public right of navigation	Consider how the changes caused by the proposed development might impact public navigation of the waterway.
The sustainability of wild salmon	Consider how local salmon populations and salmon run rivers might be impacted by the proposed development. Consider measures proposed by the applicant, such as recovery, restoration, or containment efforts.
The number and productivity of other aquaculture sites in the public waters surrounding the proposed aquaculture location.	Consider cumulative impacts that may result given other known or proposed aquaculture sites in the area and interactions with other aquaculture operations. Consider mitigation measures proposed by the applicant.

Administrative Process

When is the administrative process used to make aquaculture decisions in Nova Scotia?

Nova Scotia has a two-tiered licencing system that reflects the notion that some aquaculture activities may pose a greater environmental risk and therefore require more scrutiny through an adjudicative process.⁴⁹ Activities which the government determines pose less environmental risk, such as amendments and reallocations, follow an administrative process.

There are six types of proposals that will require an administrative process:

1. A new land-based aquaculture site;

2. An amendment of an aquaculture licence or lease;
3. The renewal of an aquaculture licence or lease;
4. The assignment of an aquaculture licence or lease;
5. An experimental aquaculture licence or lease; and,
6. The reallocation of an aquaculture site.⁵⁰

In addition to the six applications described above, an aquaculture licence or lease in a **designated aquaculture development area** is subject to an administrative process.

The Administrative Application Process

Phase 1: Pre-Application Phase

The first step in the Administrative Process is the pre-application phase. This phase includes a meeting with the Department of Fisheries and Aquaculture to discuss what information will be required for the application.

Phase 2: Review Phase

Once the pre-application phase is complete, the proponent submits an application for a license and/or lease. The details of the application requirements are determined by the Administrator; however, an application for a new land-based aquaculture site, reallocation of a marine aquaculture site, or a site in an aquaculture development area must include a development plan.⁵¹ If the Department deems the application complete, it will proceed to the decision phase.

Phase 3: Decision Phase

Decisions are made by the Administrator, who is an employee of the Department appointed to that role by the Minister.⁵²

Public Input

Any person can submit written comments on an administrative application to the Administrator.

The written submission must include the following:

- your name and contact information;
- how you are connected to the matter;

- comments concerning a marine aquaculture site (these must be in relation to 1 or more of the section 3 factors [see Table 1, above]);
- comments concerning a land-based aquaculture site (these must be in relation to 1 or more of the section 43 factors [see Table 2, below]).⁵³

Public Notice

The Administrator must publish a notice on the Department's website providing a 30-day comment period. The exact comment period must be specified in the notice. To be considered, comments must be submitted within that time period.⁵⁴

The Administrator's Decision

The Administrator makes a decision after the period for submissions has closed. The decision must be in writing and include reasons. The Administrator must send a copy of the written decision to the applicant and must publish a copy on the Department's website.⁵⁵

A decision made by the Administrator can be appealed to the Minister in writing within 30 days of the decision. The Minister must notify the person making the appeal of their decision within 30 days of the appeal.⁵⁶ The decision of the Minister may be appealed to the Supreme Court of Nova Scotia.⁵⁷

The Section 43 Factors

The "section 43 factors" are a list of 3 factors found in section 43 of the Aquaculture Licence and Lease Regulations. These factors are key considerations for any decision related to land-based aquaculture sites. Members of the public who wish to comment on an application for a land-based aquaculture site must ensure their submission relates to 1 or more of the section 43 factors.⁵⁸

Table 2, below, provides a summary of the section 43 factors used to assess applications for new land-based aquaculture sites. As described in Table 1, above, there are different factors to be considered for marine aquaculture applications.

Depending on the nature of the application you wish to comment on, consult the appropriate development plan guide for more detailed descriptions of the factors.

Table 2: Section 43 Factors

FACTORS⁵⁹	CONSIDERATIONS
The financial viability of the proponent and the proposed operation.	Consider the history of the proposed development, including past successes and failures, and future projections.
The extent to which the proposal aligns with the Act, regulations, guidelines and policies.	Consider impact to other users in the area, impact to wildlife, including species at risk, water use, and impact to the public right of navigation.
The technical viability of the proposed operation.	Consider water source and discharge, infrastructure, containment, ability and experience of management team, compliance history.

In addition to the listed factors in section 43, the Administrator may consider additional factors they deem relevant to the application.

Definitions

Aquaculture means the farming for commercial purposes of aquatic plants and animals over which the Minister exercises control but does not include raising or breeding in tanks, nets, pens or cages of aquatic plants and animals either as aquarium species, in laboratory experiments or by individuals on their own property as food for their own use.⁶⁰

Aquaculture development area is an area of sub-aquatic lands under marine or brackish waters and their water columns that the Minister has designated under the authority of the Act. The Minister can impose conditions and restrictions in these areas. Applications for aquaculture operations in aquaculture development areas are not subject to an Adjudicative process.⁶¹

Farming means the culture, husbandry, production, development or improvement of aquatic plants and animals.⁶²

Option to lease means an option issued by the Minister under subsection 44A(4) of the Act to lease a tract of Crown land that is not designated as an aquaculture development area.⁶³

Sub-aquatic land means the bed of a natural body of water including the solum of the sea.⁶⁴

Water column means the aqueous medium superjacent to a defined area of sub-aquatic land.⁶⁵

Summary of Key Steps in Administrative and Adjudicative Process

	ADMINISTRATIVE PROCESS	ADJUDICATIVE PROCESS	
PRE-APPLICATION	Proponent has a pre-application meeting with the Department.	Proponent submits a proposal for an option to lease <u>or</u> a request for an adjudicative amendment to the Department.	
	Proponent collects information and prepares application, including development plan when required.	Proponent collects information, prepares application, including development plan, and undertakes scoping, including public information session(s).	
REVIEW	Proponent (now applicant) submits application to the Department.	Proponent (now applicant) submits application to the Department with development plan and report from scoping process.	
	Administrator reviews application and consults with provincial or federal departments or agencies as required. Administrator consults with any persons or organizations they consider necessary.	<u>Adjudicative Amendment</u> The Department reviews application and consults with provincial or federal departments or agencies as required. Department may consult with any persons or organizations the Minister considers necessary. Department completes performance review application. Department refers completed application to Review Board.	<u>New Marine Site</u> The Department reviews application and consults with provincial or federal departments or agencies as required. Department may consult with any persons or organizations the Minister considers necessary. Department refers completed application, along with a report on consultation, to the Review Board.
DECISION	Public submits written comments.	Review Board reviews application and holds a public hearing.	
	Following close of public comment period, Administrator reviews input and issues written decision, with reasons.	Review Board issues written decision, with reasons, within 30 days of public hearing.	

Other Relevant Resources

Fisheries and Coastal Resources Act

<https://nslegislature.ca/sites/default/files/legc/statutes/fisheries%20and%20coastal%20resources.pdf>

Aquaculture Licence and Lease Regulations

https://www.novascotia.ca/just/regulations/regs/fcraqualiclease.htm#TOC2_2

Aquaculture Management Regulations

<https://www.novascotia.ca/just/regulations/regs/fcraquamgmt.htm>

Aquaculture Public Information Site

<https://novascotia.ca/fish/aquaculture/public-information/>

Aquaculture Application Forms and Development Plan Guides

<https://novascotia.ca/fish/aquaculture/licensing-leasing/>

Aquaculture Review Board

<https://arb.novascotia.ca>

Disclaimer

Please note that this volume cannot cover all legal issues or all options available to you, nor should it be interpreted as legal advice. While East Coast Environmental Law works hard to update its materials, some information contained in this Summary Series may become outdated as statutes, regulations, and policies are updated and amended.

East Coast Environmental Law Association

The East Coast Environmental Law Association is an environmental law charity based in Halifax, Nova Scotia that engages in public-interest environmental law throughout Atlantic Canada. East Coast Environmental Law responds to community inquiries, carries out legal and policy research, and presents educational resources and opportunities to increase public awareness of environmental laws throughout Atlantic Canada. Our objective is to build capacity in the public and among legal practitioners so that we can work together to ensure that environmental laws are effectively used and strengthened.

Research assistance was provided by law student Kanisha Acharya-Patel.

The Environmental Law Summary Series

The Environmental Law Summary Series was one of the first public legal education activities undertaken by East Coast Environmental Law. Each volume of the Summary Series serves as a quick reference resource. The volumes are topical and generally address an area of interest or concern raised by communities or organizations.

Following is a list of East Coast Environmental Law's most recent summary series documents:

Volume 9	(2018) The Prince Edward Island <i>Water Act</i>
Volume 10	(2018) Who Owns the Coast? (Nova Scotia)
Volume 11	(2020) Environmental Impact Assessment: A Legal Toolkit for Newfoundland & Labrador
Volume 12	(2020) Environmental Impact Assessment: A Legal Toolkit for Nova Scotia
Volume 13	(2020) Environmental Impact Assessment: A Legal Toolkit for New Brunswick
Volume 14	(2020) Environmental Impact Assessment: A Legal Toolkit for Prince Edward Island

For More Information

Please visit East Coast Environmental Law at www.ecelaw.ca to access other legal resources and our free online Information Library.



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Endnotes

- ¹ *Fisheries and Coastal Resources Act*, SNS 1996, chapter 25, section 3(1)(a) ["FCRA"].
- ² East Coast Environmental Law, *Aquaculture Regulation in Nova Scotia: Overview of the Regulatory Framework and Considerations for Regulatory Reform* (April 2013) at page 3.
- ³ Independent Aquaculture Regulatory Review for Nova Scotia, *A New Regulatory Framework for Low-Impact/High-Value Aquaculture in Nova Scotia*, by Meinhard Doelle & William Lahey, Final Report (Halifax: Province of Nova Scotia, 2014) at page 8 ["*The Doelle-Lahey Report*"].
- ⁴ Gardner Pinfold, *Feasibility of Land-Based Closed-Containment Atlantic Salmon Operations in Nova Scotia* (May 2014) online at: <https://novascotia.ca/fish/documents/Closed-Containment-FINAL.pdf>, at page 3 ["Pinfold"].
- ⁵ Pinfold (see endnote 4, above).
- ⁶ Licensed Aquaculture Sites in Nova Scotia, online: <https://novascotia.ca/fish/aquaculture/public-information/>.
- ⁷ Nova Scotia Department of Fisheries and Aquaculture, *Aquaculture Strategy: Creating Sustainably Wealth in Rural and Coastal Nova Scotia*, (2013) at page 4, online: <https://www.novascotia.ca/fish/documents/NS-Aquaculture-Strategy.pdf>.
- ⁸ *The Doelle-Lahey Report* (see endnote 3, above) at page xi.
- ⁹ FCRA (see endnote 1, above) at sections 43 to 64.
- ¹⁰ *Morton v British Columbia (Agriculture and Lands)*, 2009 BCSC 136. In this case, the British Columbia Supreme Court determined that the regulation of certain aquaculture practices is outside (*ultra vires*) the provincial Crown's authority, and as such, that the licensing of salmon farms is a federal rather than a provincial responsibility.
- ¹¹ FCRA (see endnote 1, above) at section 44.
- ¹² *Black's Law Dictionary*, 7th ed.
- ¹³ FCRA (see endnote 1, above) at section 49.
- ¹⁴ *Ibid* at section 43(a).
- ¹⁵ *Ibid* at section 44A.
- ¹⁶ Aquaculture Licence and Lease Regulations, NS Reg. 347/2015 at section 6 ["ALLR"].
- ¹⁷ *The Doelle-Lahey Report* (see endnote 3, above) at page 88.
- ¹⁸ FCRA (see endnote 1, above) at section 44A(1).
- ¹⁹ *Ibid* at section 44A, and ALLR (see endnote 16, above) at section 8.
- ²⁰ ALLR (see endnote 16, above) at section 9.
- ²¹ *Ibid* at sections 10(2), 10(3), 12(2), 12(3).
- ²² *Ibid* at section 10.
- ²³ *Ibid* at section 12.
- ²⁴ Government of Nova Scotia, Adjudicative Process for Aquaculture Licence and Lease Applications, online at: <https://novascotia.ca/fish/aquaculture/licensing-leasing/Aqua-Licensing-and-Leasing-Overview.pdf>.
- ²⁵ ALLR (see endnote 16, above) at section 11.
- ²⁶ FCRA (see endnote 1, above) at section 47, and ALLR (see endnote 16, above) at section 14.
- ²⁷ FCRA (see endnote 1, above) at section 47, and ALLR (see endnote 16, above) at section 16.
- ²⁸ ALLR (see endnote 16, above) at section 15.
- ²⁹ *Ibid* at section 2.
- ³⁰ FCRA (see endnote 1, above) at section 43A.
- ³¹ *Ibid* at section 49, and ALLR (see endnote 16, above) at section 17.
- ³² FCRA (see endnote 1, above) at sections 48.
- ³³ *Ibid* at section 51.
- ³⁴ ALLR (see endnote 16, above) at section 19.
- ³⁵ *Ibid* at section 21.
- ³⁶ *Ibid* at section 20; see also Nova Scotia Aquaculture Review Board Rules of Procedure Respecting Adjudicative Hearings, section 11(1), online: https://arb.novascotia.ca/sites/default/files/nsarb_board_rules_of_procedure_may_2018.pdf.
- ³⁷ ALLR (see endnote 16, above) at section 32.
- ³⁸ *Ibid* at section 23.
- ³⁹ *Ibid* at section 23.
- ⁴⁰ *Ibid* at section 23(1).
- ⁴¹ *Ibid* at section 23(3), 23(6).
- ⁴² *Ibid* at section 22.
- ⁴³ *Specter v Nova Scotia (Minister of Fisheries and Aquaculture)*, 2011 NSSC 333 at paragraphs 61-62. The same judge also noted at paragraph 59 that public interest groups generally do not have interest standing: "Public interest groups and individual advocates have usually been denied standing to challenge administrative action that raises environmental concerns, for lack of an identifiable special interest of their own" (*Donald JM Brown Y John M Evans, Judicial Review of Administrative Action in Canada, loose-leaf (Toronto: Canvasback, 2010) §4.3443*).
- ⁴⁴ ALLR (see endnote 16, above) at sections 36(1), (3).
- ⁴⁵ FCRA (see endnote 1, above) at section 50.
- ⁴⁶ ALLR (see endnote 16, above) at section 30.
- ⁴⁷ *Ibid* at section 32(3).
- ⁴⁸ *Ibid* at section 3.
- ⁴⁹ *The Doelle-Lahey Report* (see endnote 3, above) at page 15.

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- ⁵⁰ ALLR (see endnote 16, above) at section 38.
- ⁵¹ *Ibid* at sections 44, 66(2), 70(2).
- ⁵² FCRA (see endnote 1, above) at section 54A(1).
- ⁵³ ALLR (see endnote 16, above) at section 41(5).
- ⁵⁴ *Ibid* at section 41.
- ⁵⁵ FCRA (see endnote 1, above) at section 42.
- ⁵⁶ *Ibid* at section 118.
- ⁵⁷ *Ibid* at section 119.
- ⁵⁸ ALLR (see endnote 16, above) at section 41(5).
- ⁵⁹ *Ibid* at section 43.
- ⁶⁰ FCRA (see endnote 1, above) at section 3(1)(a).
- ⁶¹ *Ibid* at sections 56(1) and ALLR (see endnote 16, above) at section 2.
- ⁶² *Ibid* at section 43(h).
- ⁶³ ALLR (see endnote 16, above) at section 2.
- ⁶⁴ FCRA (see endnote 1, above) at section 43(l).
- ⁶⁵ *Ibid* at section 43(m).